

SEP 30 2003

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

VICTOR JULIO PARRA-MORALES,

Petitioner - Appellee,

v.

JOHN ASHCROFT, Attorney General,

Respondent - Appellant.

Nos. 01-56894, 02-56164

D.C. Nos. CV-01-00600-BTM,
CV-02-00040-BTM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Submitted September 11, 2003**
Pasadena, California

Before: KLEINFELD, WARDLAW, and W. FLETCHER, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Taniguchi v. Schultz¹ holds that Immigration and Nationality Act § 212(h) (8 U.S.C. § 1182(h)) does not violate equal protection by distinguishing between lawful and non-lawful permanent residents convicted of aggravated felonies. Taniguchi thus precludes the habeas relief sought by Parra-Morales in his first writ.

The appeal of the stay is moot, and we need not decide it, because (1) Parra-Morales was nevertheless eventually released; (2) the basis for issuing the writ was vitiated by Taniguchi; and (3) our decision in Kim v. Ziglar,² providing for release, was reversed by the Supreme Court. See Demore v. Kim.³

REVERSED

¹ 303 F.3d 950, 957-58 (9th Cir. 2002).

² 276 F.3d 523 (9th Cir. 2002).

³ ___ U.S. ___, 123 S. Ct. 1708 (2003).